

Dispute Resolution . . .

Occupational Disease Panel

Mediation

Contested Case Hearings

Workers' Compensation Court

Occupational Disease Panel

The Claims Unit of the Employment Relations Division (ERD) is responsible for the occupational disease (OD) panel process. The panel process is designed to resolve questions between a claimant and insurer as to whether the claimant's condition is a result of the employment. Diagnosing an OD and assigning a cause can be difficult. This process involves a panel of up to three doctors who provide opinions. Based on the doctors' opinions, ERD then issues a determination. The determination states whether the claimant's condition is caused from employment and if, therefore, the claimant is entitled to occupational disease benefits. Average processing time for the OD panel was 100 days during FY98. This average includes second and third requests and mandatory waiting periods.

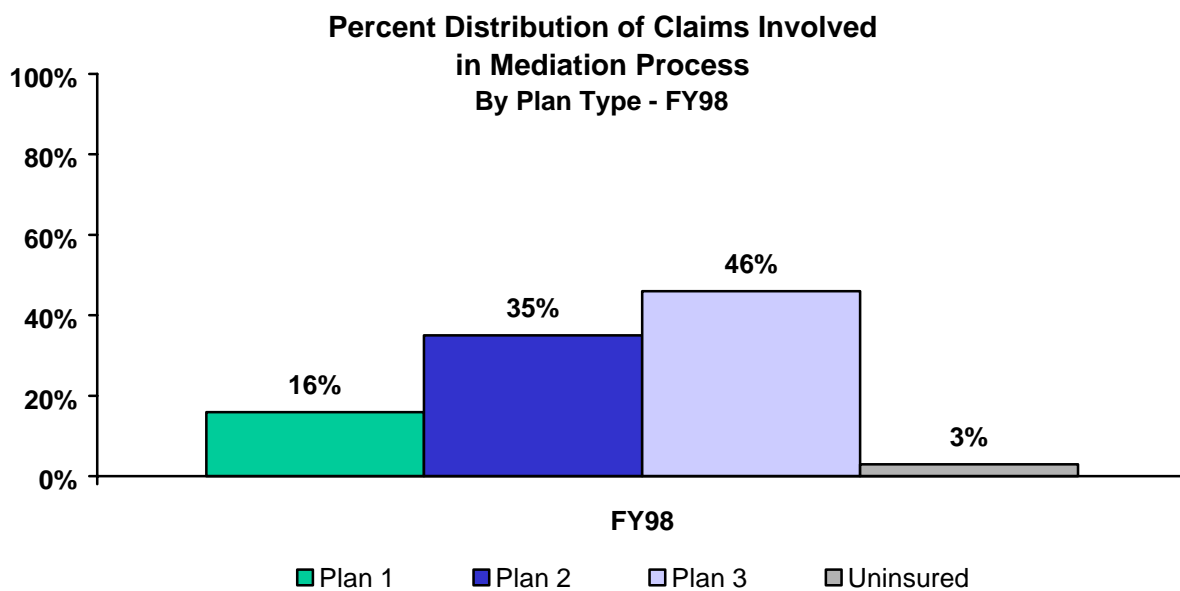
Disputes over the determination are appealed to the Hearings Unit of the Department of Labor and Industry.

Occupational Disease Panel By Fiscal Year

	FY96	FY97	FY98
Panel Requests:	402	431	436
Appealed after First Exam:	41	52	51
by Claimant	7	8	1
by Insurer	34	44	50
Second Exam Requested:	31	26	25
by Claimant	8	4	1
by Insurer	23	22	24
Cases Appealed to the Hearing Unit:	68	61	66
Cases Appealed to WCC:	7	7	
Panel results:			
Claims Accepted	224	245	230
Claims Denied	83	92	92
Canceled, Withdrawn or Dismissed	78	65	94
Cases Closed:	385	402	416

Mediation

The Workers' Compensation Mediation Unit of the Employment Relations Division provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and accepted occupational disease claims. The mediation process is confidential, non-binding, and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are either held in person in Helena or by telephone conference call. Often, more than one conference is held in order to resolve the disputes on a claim. In Fiscal Year 1998, the Mediation Unit received and processed 913 petitions.



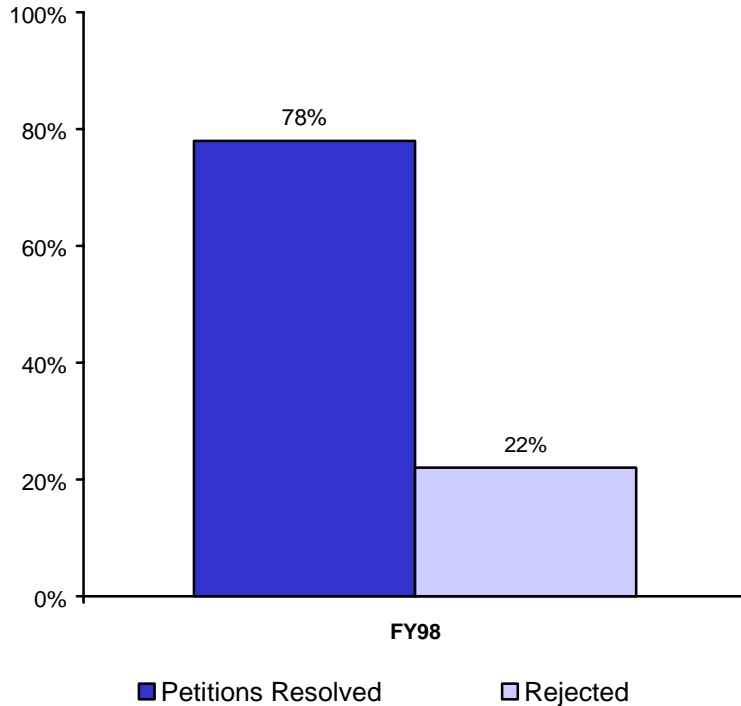
**Percent Distribution of Claims Involved
in Mediation Process
By Plan & Fiscal Year**

	FY96	FY97	FY98
	Percent	Percent	Percent
Plan 1	14%	13%	16%
Plan 2	31%	34%	35%
Plan 3	53%	50%	46%
Uninsured	2%	3%	3%
Total Percent	100%	100%	100%
Total Count	858	857	913

Notes:

Petitions may represent multiple claims and multiple plans.

**Percent Distribution of Petitions Resolved
in FY98**



- Mediation has an approximate resolution rate of 78%.
- Mediation took an average of 33 days to complete a case for which a conference was held and a written recommendation issued.

**Distribution of Petitions Received
By Fiscal Year**

	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Petitions Resolved	679	80%	664	79%	581	78%
Recommendation Rejected	174	20%	179	21%	161	22%
Total Petitions Resolved	853	100%	843	100%	742	100%
Resolved/Rejected	853	99%	843	88%	742	81%
Petitions Pending*	5	1%*	14	2%	171	19%
Total Petitions Received	858	100%	857	100%	913	100%

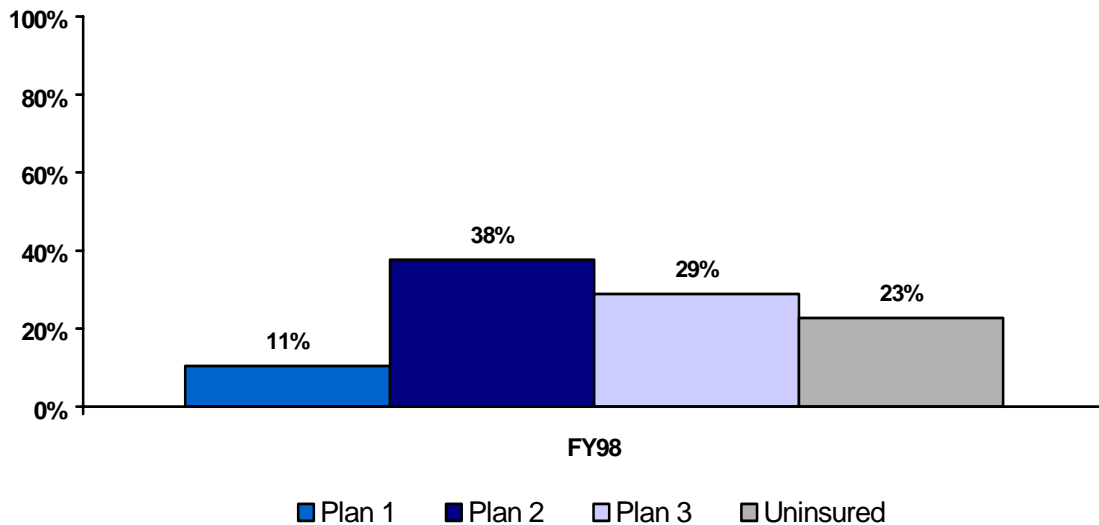
Notes:

*Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The Department of Labor and Industry's Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, and medical disputes between providers and insurers when payments to the claimant are not an issue. For Fiscal Year 1998 (FY98) the Hearings Unit received 114 requests for contested case hearings. Ninety hearing cases were held in FY98. Seventy-one petitions had been closed or settled as of 6/30/98.

**Percent Distribution of Petitions Received
By Plan Type - FY98**



**Distribution of Petitions Received
By Plan Type**

	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Plan 1	12	10%	10	8%	12	11%
Plan 2	28	22%	32	27%	43	38%
Plan 3	57	46%	48	40%	33	29%
Uninsured	28	22%	30	25%	26	23%
Underinsured*	1	0%	1	0%	NA	NA
Total	126	100%	121	100%	114	100%

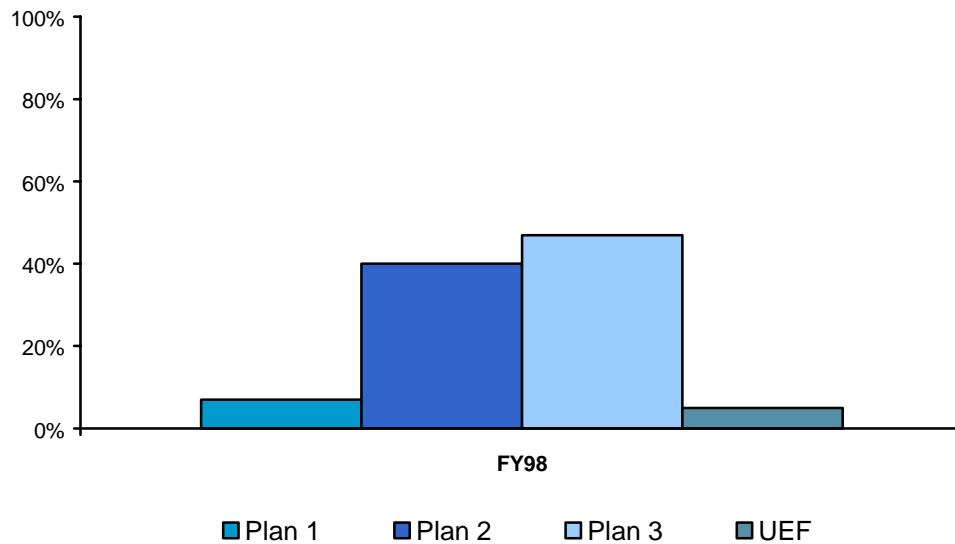
Notes:

*Underinsured was repealed in 1997.

Workers' Compensation Court

The Workers' Compensation Court resolves disputes between insurers/employers and injured workers, and for workers disabled as a result of an occupational disease. The Court has original jurisdiction over benefit issues under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 1, 1987, the controversy must first be mediated. In cases of original jurisdiction the Court holds a trial. The Court has appellate jurisdiction over decisions of the Department of Labor and Industry involving other workers' compensation and occupational disease controversies. Additionally, the Court conducts judicial review over decisions of the Classification and Review Committee (Commissioner of Insurance) regarding classification of employees.

**Percent Distribution of Petitions Received
by Plan Type - FY98**



Notes:

Subsequent Injury Fund received 1 petition in FY98.

**Distribution of Petitions Received
By Plan Type**

	FY96		FY97		FY98	
Plan Type	Count	Percent	Count	Percent	Count	Percent
Plan 1	23	10%	20*	10%	18*	7%
Plan 2	102	45%	92*	44%	98*	40%
Plan 3	98	43%	89*	43%	116*	47%
SIF ¹	1	0%**	0	-	1	0%**
UEF ²	4	2%	6*	3%	13*	5%
Total by Plan	228	100%	207*	100%	246*	100%
Total Cases	228	100%	202	100%	235	100%

Notes:

*Petitions involving more than one plan account for the higher totals.

** Less than one percent.

¹SIF means Subsequent Injury Fund.

²UEF means Uninsured Employer Fund.

**Distribution of Decisions
By Fiscal Year**

	FY96	FY97	FY98
Bench Rulings w/out written decisions	2	1	2
Decisions	61	52	45
Orders on Appeal	15	5	9
Substantive Orders	38	40	52
Attorney Fee Orders	9	6	3
Orders on Cost	11	9	8
Disposed of by Telephonic Conference	--	6	6
Subtotals	136	119	125
Petitions Dismissed by Agreement	157	135	155
Totals	293	254	280

1998 Facts

- ◆ Number of petitions received: 235
- ◆ Number of appeals from department orders: 11
- ◆ 155 petitions dismissed
- ◆ 61 trials held in FY98
- ◆ Decisions totaled 125

